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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE**

RONALD VICTOR ARTHUN and
MATT ROBINS,

Plaintiffs,

v.

NEXUS SURGICAL INNOVATIONS,
INC.,

Defendant.

No. 2:20-cv-00292

**NUVASIVE, INC. & NEXUS
SURGICAL INNOVATIONS,
INC.'S MOTION FOR
PRELIMINARY INJUNCTION**

Hearing Date: November 24, 2020
Time: 3:00 p.m.
Via video conference
With Oral Argument

**MOTION FOR PRELIMINARY
INJUNCTION - 1**

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1 NUVASIVE, INC. & NEXUS
2 SURGICAL INNOVATIONS, INC.,

3 *Plaintiffs,*

4 v.

5 MATT ROBINS,

6 *Defendant.*

7
8 NUVASIVE, INC. & NEXUS
9 SURGICAL INNOVATIONS, INC.,

10 *Plaintiffs,*

11 v.

12 RONALD V. ARTHUN,

13 *Defendant.*

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17 Through their counsel of record, and pursuant to Federal Rule of Civil
18 Procedure 65, NuVasive, Inc. (“NuVasive”) and neXus Surgical Innovations, Inc.
19 (“neXus” or “neXus Surgical”), move for a preliminary injunction, and request
20 that the Court enjoin, Matt Robins (“Robins”), from violating the confidentiality,
21 noncompetition, and nonsolicitation obligations contained in his Confidential
22 Information, Inventions, Nonsolicitation and Noncompetition Agreement (the
23 “Agreement”) between himself and neXus, and to which NuVasive is an express,
24
25
26 third-party beneficiary. In support of this motion, NuVasive and neXus state:
27

28 **MOTION FOR PRELIMINARY
INJUNCTION - 2**

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1 1. NeXus, one of NuVasive’s exclusive sales agents with a sales territory
2 encompassing all or part of Washington, Montana, Utah, Wyoming, and Idaho,
3 engaged Robins in a sales role – first as an entry-level Spine Associate and then
4 as a full Spine Specialist – between January 7, 2019, and May 31, 2020.
5

6 2. As a condition of his engagement with neXus, Robins agreed to and
7 executed the Agreement, which contains reasonable confidentiality,
8 noncompetition, and nonsolicitation obligations.
9

10 3. After abruptly resigning his neXus employment on May 31, 2020,
11 Robins immediately assumed a nearly identical role with NuVasive’s direct
12 competitor, Alphatec Spine, Inc. (“Alphatec”).
13

14 4. Around the time of his resignation, Robins communicated to neXus’
15 owner that he did not intend to adhere to the contractual obligations he owes to
16 neXus and NuVasive, and that he intended to immediately solicit the business of
17 his former NuVasive/neXus surgeon-customers on behalf of Alphatec.
18
19

20 5. Consistent with his representations, Robin’s sales territory on behalf
21 of Alphatec includes several of his long-time NuVasive/neXus surgeon-
22 customers, and Robins is soliciting the business of and supporting surgeries
23 performed by at least one of those surgeon-customers.
24
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1 6. If Robins is not preliminarily enjoined from violating his restrictive
2 covenants, NuVasive and neXus will continue to be irreparably harmed, in the
3 form of lost customers, which cannot be compensated by money damages.
4

5 7. On the other hand, issuing the requested injunction will not harm
6 Robins as it will only preclude him from doing what he is contractually precluded
7 from doing – misusing NuVasive’s and neXus’ confidential and/or proprietary
8 information and improperly competing with NuVasive and neXus in his former
9 sales territory. Indeed, Section 7 of the Agreement contains Robin’s
10 acknowledgement that his restrictive covenants are important to NuVasive and
11 neXus and are necessary to protect NuVasive and neXus.
12
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14 8. Granting the requested injunction will further the public’s interest in
15 seeing valid contractual obligations enforced as written.
16

17 9. In further support of this motion, NuVasive and neXus rely upon the
18 supporting memorandum, the declarations of Derek Mulgrew and John English,
19 the verified allegations in the Complaint, and the exhibits attached thereto.
20

21 WHEREFORE, NuVasive and neXus respectfully requests that this Court:

- 22 a. grant this motion;
23
24 b. issue a preliminary injunction which precludes Robins from violating
25 the confidentiality, nonsolicit, and noncompetition clauses in his Agreement; and
26
27 c. grant any other relief that it deems just and proper.

1 RESPECTFULLY SUBMITTED,

2 DATED this 6th day of October, 2020.

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4 LAKE CITY LAW GROUP PLLC

5
6 By: /s/ Katharine B. Brereton
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21 *Attorneys for NuVasive, Inc. &*
22 *neXus Surgical Innovations, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of October, 2020, I filed the foregoing with the Clerk of the Court electronically through the CM/ECF system which will send notice of electronic filing to the registered participants in the method indicated below:

William M. Symmes, WSBA #24132 (X) wms@witherspoonkelley.com
Matthew W. Daley, WSBA #36711 (X) mwd@witherspoonkelley.com
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Further, I hereby certify there are no non-CM/ECF participants upon whom service is required in this matter.

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